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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,881	02/12/2001	Daniel J.C. Herr	5347-204	9632

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EXAMINER

ANGEBRANNDT, MARTIN J

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Applicati n N .

09/781,881

Applicant(s)

HERR ET AL.

Examiner

Martin J Angebrannt

Art Unit

1756

--The MAILING DATE of this communication appears on the cover sheet with the corresp ndence address --

THE REPLY FILED 02 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.


3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 3,4,8,11,13,16,17,21,24,26,29,30,37 and 39.Claim(s) objected to: 12,34 and 38.Claim(s) rejected: 2,5-7,9,10,18-20,22,23,31-33,35 and 36.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Martin J Angebrannt
Primary Examiner
Art Unit: 1756

Continuation of 3. Applicant's reply has overcome the following rejection(s): The rejections under 35 USC 112 and the art rejections based upon the combination of Joy et al. and Tetsuo et al. ..

Continuation of 5. does NOT place the application in condition for allowance because: With respect to the prior art rejections, the applicant neglect to note that the forward scattering technique uses electron beams to detect the surface information and the teachings of the secondary references clearly teach means for detecting these electrons and forming a permanent record of the information. Based upon the lack of information concerning the means for detecting the electrons, one of ordinary skill in the art would be directed to means known in the art. This would include the electron beams resist described on pages 77-79 of Elliott, which was published in 1982. The applicant also seems to argue that the surface information sought by Joy et al. is not the desired pattern. The examiner believes that as Joy et al. is seeking information about the surface, it is inherently the "desired pattern". This argument would have greater effect if the process of producing and patterning the reflector surface was recited. Only the rejection based upon the combination of Joy et al. and Elliott remains.

W
8/9/03